



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
GENERAL COUNSEL

**BY U.S. MAIL**

**OCT - 6 2017**

Albert Telsey  
Catherine Pastrikos Kelly  
Meyner and Landis LLP  
One Gateway Center Suite 2500  
Newark, NJ 07102

Re: Subpoena for Documents in *Carneys Point Township v. E.I. DuPont*, Civil Action  
SLM-L-251-16 (Sup. Ct. N.J., Salem County)

Dear Mr. Telsey & Ms. Kelly:

I am responding to your subpoena to the U.S. Environmental Protection Agency ("EPA"), dated September 29, 2017. The subpoena requests documents relating to E.I. DuPont and Co. ("DuPont") and various properties in New Jersey with which DuPont is associated. The EPA is not a party to the above-referenced civil proceeding, which was filed in the Superior Court of the State of New Jersey, Salem County. The EPA's *Touhy* regulations at 40 C.F.R. Part 2, Subpart C, contain restrictions on EPA employees testifying or producing documents regarding official matters in any proceeding where the United States Government is not a party. *See United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951). The purpose of the regulations is "to ensure that employees' official time is used only for official purposes, to maintain the impartiality of EPA among private litigants, to ensure that public funds are not used for private purposes and to establish procedures for approving testimony or production of documents when clearly in the interests of EPA." 40 C.F.R. § 2.401(c).

Under 40 C.F.R. § 2.405, when a subpoena is "essentially a written request for documents, the requested documents will be provided or denied in accordance with subparts A and B of this part<sup>1</sup> where approval to respond to the subpoena has not been granted." Your subpoena will be treated in accordance with the FOIA and the EPA's applicable regulations. Your request has been assigned the FOIA identification number EPA-R2-2018-000216 and is currently being processed by the EPA. The program office assigned to your FOIA request will inform you of the costs, if any, of processing the FOIA request in accordance with the EPA's regulations at 40 C.F.R. § 2.107.

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<sup>1</sup> 40 C.F.R. Part 2 (Public Information), Subpart A (Procedures for Disclosure of Records Under the Freedom of Information Act) and Subpart B (Confidentiality of Business Information).

Should you have any questions concerning this matter, please call Scott Albright at (202) 564-2884.

Sincerely,

A handwritten signature in blue ink, appearing to read "Wendy Blake". The signature is fluid and cursive, with the first name "Wendy" and last name "Blake" clearly distinguishable.

Wendy Blake  
Associate General Counsel  
General Law Office

cc: HQ FOI Office

Enclosure